

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10697 of 2020

Arising Out of PS. Case No.-288 Year-2019 Thana- NADI P.S. District- Patna

1. KANCHAN KUMAR @ KANCHAN KR. Son of Nandu Rai Resident of Village - Kripal Tola, P.S.- Nadi, Dist.- Patna.
2. Dinesh Ray Son of Bhagirath Rai Resident of Village - Kripal Tola, P.S.- Nadi, Dist.- Patna.
3. Awadhesh Rai Son of Late Lakhan Rai Resident of Village - Kripal Tola, P.S.- Nadi, Dist.- Patna.
4. Chhotu Kumar Son of Devendra Rai @ Mukhia Resident of Village - Kripal Tola, P.S.- Nadi, Dist.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Shyamal Prakash
For the Opposite Party/s :	Mrs. Anita Kumari Singh
	Mr. Ram Sumiran Rai

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 11-06-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing lock-down on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel for the petitioners and Mrs. Anita Kumari Singh, learned A.P.P. for the State.

The petitioners apprehend their arrest in connection with Nadi P.S. Case No. 288 of 2019 for the offence registered under Sections 341, 323, 504, 307, 427, 353, 332, 333, 188, 120(B) and 34 of the Indian Penal Code.



The case of the prosecution in brief is that upon secret information received by the informant, he along with the police force had gone to the alleged place of occurrence at the alleged date and time and had found that several people were unloading illicit liquor from a Tata 407 vehicle which was standing near the house of Ravindra Rai and his five brothers as also near the house of the co-accused persons Sudhir Kumar and Devendra Rai. It is further alleged that huge quantity of illicit liquor was recovered, however, the aforesaid accused persons had fled away and climbed on to the roof of their houses and all the accused persons including a mob of 50-60 persons had then engaged in stone pelting on the police.

The learned counsel for the petitioners has submitted that the petitioners are innocent, they have been falsely implicated in the present case and are having clean antecedent. It is further submitted that the petitioners have been falsely implicated in the present case on the confessional statement of the female co-accused, who had upon interrogation disclosed the names of the petitioners herein. It is further submitted that as far as the petitioners are concerned, there is neither any allegation of recovery of illicit liquor from their conscious possession nor they have been alleged to have engaged in any sort of specific



overt act and moreover, they have got nothing to do with the Tata 407 vehicle in question. It is further submitted that since no offence is made out under the provisions of the Bihar Prohibition & Excise Act, 2016 (hereinafter referred to as 'the Act, 2016'), the bar of Section 76(2) of the Act, 2016 shall not come into play in the present case, hence there is no impediment in considering the prayer of the petitioners for grant of anticipatory bail.

Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the fact that no illicit liquor has been recovered from the possession of the petitioners, apart from the fact that there is no allegation of any sort of overt act qua the petitioners herein, this Court finds that prima facie no case is made out under the provisions of the Act, 2016 as far as consideration of the present anticipatory bail petition is concerned, hence this Court deems it fit and proper to admit the petitioners to the privilege of anticipatory bail.

Accordingly, the petitioners, above named, are directed to be released on anticipatory bail in the event of their arrest/surrender before the court below within a period of four



weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge, Excise, Patna in connection with Nadi P.S. Case No. 288 of 2019 subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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